

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

PAMELA SWETZOF and MATTHEW
SWETZOF, wife and husband and the
marital community comprised thereof,

Plaintiffs,

vs,

UNITED STATES OF AMERICA,

Defendant.

NO.

COMPLAINT FOR DAMAGES
FOR PERSONAL INJURIES

I. JURISDICTION AND VENUE

1.1 Jurisdiction for this cause of action is based on 28 U.S.C. § 1346(b). This civil action involves a claim against the United States of America arising out of premises liability for dangerous and inadequately maintained premises owned, possessed, and controlled by the United States Navy.

1.2 Venue is proper under 28 U.S.C. § 1402(b). The tortious conduct alleged occurred within this judicial district, and the plaintiffs reside within this judicial district.

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II. PARTIES

2.1 At all times material hereto, Plaintiffs, Pamela Swetzof and Matthew Swetzof, were residents of the State of Washington.

2.2 At all times material hereto, Plaintiffs Pamela Swetzof and Matthew Swetzof, were spouses and comprised a marital community under the laws of the State of Washington.

2.2 Defendant, United States of America, acting by and through its agencies and employees of the United States Navy.

III. PROCEDURAL REQUIREMENTS

3.1 On or about March 5, 2021, Plaintiff filed a Federal Tort Claim for Damages with the United States satisfying the procedural requirement of 28 U.S.C. § 2401.

IV. FACTS OF INJURY CAUSING EVENT

4.1 On March 9, 2019, at approximately 7:55 am, plaintiff, Pamela Swetzof, was on a sidewalk at the Naval Hospital Bremerton at 1 Boone Road, Bremerton, Kitsap County, State of Washington, 98312 walking towards an entrance to the hospital when she slipped and fell on ice. Later that day, Pam Swetzof's husband, Matthew Swetzof, went to the Naval Hospital and spoke with the Officer of the Day (OOD) and Command Duty Officer (CDO), and they showed Mr. Swetzof the area where Pam Swetzof fell. The OOD and CDO admitted that the fall occurred before any inspections occurred. The OOD and CDO also admitted that no warning cones or signs were put out and that the ice had not been salted.

4.2 The United States Navy owned, possessed, and controlled the sidewalk where Plaintiff, Pamela Swetzof, slipped and fell on ice.

V. DEFENDANT'S LIABILITY

5.1 On March 9, 2019, Pamela Swetzof was on defendant's premises as a member of the public for the purpose for which the premises were held open to a segment of the public, and therefore, Pamela Swetzof was a "public invitee" of defendant. *McKinnon v. Washington Federal Sav. & Loan Ass'n*, 68 Wash.2d 644 (1966); *Fosbre v. State*, 70 Wash.2d 578 (1967); See also, Restatement (Second), Torts § 332.

5.2 On March 9, 2019, Pamela Swetzof was on defendant's premises for purposes directly or indirectly connected with business dealings with the defendant, United States Navy, and therefore, Pamela Swetzof was a "business invitee" of defendant. *McKinnon v. Washington Federal Sav. & Loan Ass'n*, 68 Wash.2d 644 (1966); See also, Restatement (Second), Torts § 332.

5.3 Because Plaintiff was an "invitee" on defendant's premises, defendant owed Plaintiff the affirmative duty to keep its premises in a safe condition regardless of whether the unsafe condition was caused by natural accumulations of snow and ice. Defendant's duties include periodic inspections and to mitigate foreseeable conditions that involve an unreasonable risk of injury. *Iwai v. State of Washington*, 129 Wash.2d 84 (1996).

5.4 The weather conditions were such that with freezing temperatures and humidity, it was reasonable to expect accumulations of ice on pedestrian walkways; however, no inspection of the premises was conducted before opening the premises to the public.

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1 5.5 Because of the contours of the sidewalk where Pamela Swetzof slipped and fell
2 on ice, water tended to puddle at that location, and it was reasonably foreseeable
3 that water would puddle at that location and that the puddled water would freeze
4 and become black ice with the freezing temperatures the night before the
5 morning that Pamela Swetzof slipped and fell on the ice.
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7 VI. DAMAGES

8 6.1 As a direct and proximate result of slipping and falling on defendant's premises on
9 March 9, 2019, Plaintiff, Pamela Swetzof, suffered the following damages:

10 a) bodily injuries and disabilities, the full extent of which will be shown at trial.

11 b) medical expenses incurred to date and to be incurred in the future, the full
12 extent of which will be shown at trial.

13 c) emotional distress, pain, and suffering, past, present, and future, the full extent
14 and nature of which will be shown at trial.

15 d) loss of enjoyment of life, the full extent and nature of which will be shown at
16 trial.
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18 e) general damages which will fully and fairly compensate Plaintiff for the nature
19 and extent of injuries and damages in an amount to be shown at trial.

20 6.2 As a direct and proximate result of the injuries Pamela Swetzof's suffered when
21 she fell on defendant's premises on March 9, 2019, both Pamela Swetzof and her
22 husband, Matthew Swetzof, have suffered mutual loss of consortium.
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VII. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment against the defendants as follows:

1. For Plaintiffs' special and general damages in sums to be proven at trial.
2. For Plaintiffs' taxable fees and costs; and
3. For such other and further relief as the Court deems just and equitable

DATED this 24th day of September 2021.

s/ Greg S. Memovich
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